

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: Bair Hugger Forced Air) MDL No. 15-2666
Warming Devices Products) (JNE/DTS)
Liability Litigation)
This Document Relates to:) Minneapolis, Minnesota
All Cases) December 17, 2021
) **DIGITAL RECORDING**

BEFORE THE HONORABLE DAVID T. SCHULTZ
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

(STATUS CONFERENCE)

Proceedings recorded by digital recording; transcript
produced by computer.

LORI A. SIMPSON, RMR-CRR
(651) 848-1225

APPEARANCES:

For the Plaintiffs:

Meshbesh & Spence
GENEVIEVE M. ZIMMERMAN, ESQ.
1616 Park Avenue
Minneapolis, Minnesota 55404

Ciresi Conlin, LLP
MICHAEL A. SACCHET, ESQ.
Suite 4600
225 South Sixth Street
Minneapolis, Minnesota 55402

Pritzker Hageman, PA
DAVID J. SZERLAG, ESQ.
Suite 2950
45 South Seventh Street
Minneapolis, Minnesota 55402

Kaster, Lynch, Farrar & Ball, LLP
KYLE W. FARRAR, ESQ.
1117 Herkimer Street
Houston, Texas 77008

McDonald Worley
GABRIEL ASSAAD, ESQ.
Suite 100
1770 St. James Place
Houston, Texas 77056

For the Defendants:

Blackwell Burke, PA
BENJAMIN W. HULSE, ESQ.
Suite 2500
431 South Seventh Street
Minneapolis, Minnesota 55415

Transcriber:

LORI A. SIMPSON, RMR-CRR
Suite 146
316 North Robert Street
St. Paul, Minnesota 55101

P R O C E E D I N G S

IN OPEN COURT

THE COURT: We are on the record in the Bair Hugger MDL, Civil Number 15-2666.

All of the counsel for the plaintiffs, if you will each note your appearances, please.

MS. ZIMMERMAN: Good afternoon, Judge. Genevieve Zimmerman for plaintiffs. Nice to see you again.

THE COURT: Good afternoon. Nice to see you again.

MR. SACCHET: Good afternoon, Your Honor. Michael Sacchet for plaintiffs.

THE COURT: Good afternoon.

MR. FARRAR: Good afternoon, Judge. Kyle Farrar for the plaintiffs.

THE COURT: Good afternoon.

MR. ASSAAD: Good afternoon. Gabriel Assaad on behalf of plaintiffs.

THE COURT: Good afternoon.

MR. SZERLAG: David Szerlag for plaintiffs.

THE COURT: Good afternoon.

Not you, right?

UNIDENTIFIED SPEAKER: I am not on the committee. I do have clients.

THE COURT: Okay. Counsel for 3M?

1 MR. HULSE: Good afternoon, Your Honor. Ben Hulse
2 for defendants.

3 THE COURT: All right. Good afternoon, Mr. Hulse.

4 So there are a couple of things I'd like to
5 accomplish today. Judge Ericksen and I met and tried to
6 figure out who was going to have the first status conference
7 and I kept saying, I thought it should be you, Judge, and
8 she kept saying, I think it should be you, Judge. So here
9 we are.

10 I need to know essentially where people are in
11 terms of what they think is going to happen next and, you
12 know, where is the appetite, if there is one, for picking up
13 our settlement discussions that we were in the middle of
14 when I believe the case took a left turn, as it were.

15 So, Ms. Zimmerman, are you speaking on behalf of
16 the plaintiffs?

17 MS. ZIMMERMAN: I am, Your Honor.

18 THE COURT: Come on up to the podium if you don't
19 mind. It's easier for me to hear with those microphones.

20 MS. ZIMMERMAN: Well, so I appreciate the Court
21 setting the status conference. And I will be candid with
22 the Court, as we always are. We were interested to see what
23 the Court thought the status of the case was and if the
24 Court has plans that we ought to be advised of or if defense
25 counsel has plans that we ought to be advised of.

1 THE COURT: Yep.

2 MS. ZIMMERMAN: My expectation is that this case
3 has a lot of work likely ahead of it. I expect in many ways
4 it -- I don't want to say that it's starting over because we
5 now know, obviously, that the general causation experts are
6 blessed, so to speak, from the Eighth Circuit, but I expect
7 there will be many additional cases. I hope they will be
8 filed here.

9 My expectation is that the litigation likely has
10 years in front of it and certainly don't mean to
11 short-circuit the Court's offer to re-engage in the
12 conversations that may or may not lead to settlement, and
13 some of that, obviously, is outside of our control, but, you
14 know, sort of where I think the case is going to go depends
15 a lot on sort of what the Court's vision about next steps --

16 THE COURT: Sure.

17 MS. ZIMMERMAN: -- certainly were as well.

18 THE COURT: Okay. Fair enough. Let me hear from
19 Mr. Hulse and then I'll give you my thoughts on that or the
20 Court's thoughts on that.

21 MR. HULSE: Thank you, Your Honor. And I was
22 saying to Ms. Zimmerman before we started, I wasn't sure of
23 the last time I was actually in this courthouse. I've been
24 in St. Paul a number of times, but it might have actually
25 been here in this courtroom talking about bucketizing in

1 2019.

2 THE COURT: I think that's right.

3 MR. HULSE: So sort of the way that we look at
4 this is that it's, you know, almost as if the last two and a
5 half years didn't happen in a sense and we're right back
6 where we were.

7 Where we were in the middle of 2019 was that we
8 had a depleted bellwether pool due to various motions and
9 dismissals and so forth, and we were working on this
10 bucketizing process.

11 And the prelude to the initial bucketizing order
12 that Your Honor wrote sort of set -- described very well, I
13 think, where we were at that point, which is that we saw --
14 we've got this group of 5,000 cases, but we agree that we
15 really can't get to the point of figuring out what cases
16 would make the most sense to work up for bellwethers until
17 we sort the wheat from the chaff and sort things into
18 categories. We've got a lot of cases, but from our
19 perspective at least, a huge number of them have fundamental
20 problems that don't get you past go.

21 So we were working through the first two parts of
22 the bellwether -- not the bellwether, the bucketizing
23 process, which was product, product use, statute of
24 limitations, statute of repose, when everything got
25 suspended.

1 So our hope and expectation is that we would pick
2 that back up, that process, and that we would work it
3 through and get on to the next phase of it so that we can
4 actually get ourselves down to the number of cases and the
5 categories of cases that it makes sense to look at for
6 bellwethers, and then we'll get on with bellwether selection
7 and go through motion practice. If they survive, we try
8 them.

9 So that's maybe not a simple process, I agree
10 it involves a lot of work, but I'm perhaps more optimistic
11 that we can make it through that process in a more
12 expeditious way.

13 On the topic of settlement, I don't -- I'm not
14 sure I agree that we were really talking about settlement
15 because our position, again, was we can't get to that point,
16 if we're going to get to it, without getting through this
17 sorting process and, you know, getting rid of the cases that
18 don't belong.

19 So that takes us essentially right back to where
20 we were in July of 2019, and our view is we ought to pick
21 that up.

22 The other thing that I wanted to mention, Your
23 Honor, is, you know, we are going to have a cert petition
24 that we'll file on February 7th. That process will play out
25 until probably June. That's probably when we will get the

1 Supreme Court's, you know, yea or nay on it, roughly.

2 And so, you know, we think it makes perfect sense
3 while that is playing out that we, you know, get the gears
4 back up, we get this bucketizing process moving forward as
5 much as we can so, you know, when we are through that, move
6 on to phase two of bucketizing and then on to the rest.

7 The last piece I'd add is we've got some state
8 court litigation going on that not much has happened in it.
9 Obviously, the Texas case has just come back.

10 THE COURT: Not here, though.

11 MR. HULSE: No, it's not -- no, Minnesota is done.

12 THE COURT: That's done.

13 MR. HULSE: That's right. So there are -- a third
14 case was just filed in Missouri. So we've got three in
15 Missouri. One of them has a trial date in September.
16 Another of them has a trial date the following spring. And
17 then the Texas case -- that's the one that got enjoined and
18 then came back -- is set for trial in December.

19 So it's also not as if while we're working on
20 bucketizing here we won't be trying cases too. So those
21 cases -- so we will still be kind of in a bellwether-like
22 way learning information through that trial process.

23 And it may well be there are more state court
24 cases coming. There's just two that have been filed. I
25 would say plaintiffs' counsel would obviously have a better

1 idea of how many more cases there are going to be, but we
2 haven't seen it so far. There have only been a handful that
3 have been filed since the remand orders. I don't honestly
4 know how much appetite there is out there, when there's
5 other big litigations, for, you know, expanding this
6 litigation. But all of those cases, to the extent we get
7 them, they need to be fed into our bucketizing process as
8 well.

9 So bottom line is we think there's -- agree
10 there's plenty of work to do, but we think if we're -- the
11 two sides are dedicated and the Court is willing to keep
12 going with this, the bucketizing, the sorting process, that
13 that can position us for, you know, the steps after.

14 THE COURT: Okay. Very well. Thank you,
15 Mr. Hulse.

16 Do you want to respond to that before I give air
17 to some musings myself?

18 MS. ZIMMERMAN: It seems folly.

19 (Laughter)

20 THE COURT: No. I think -- here's where I think
21 Judge Ericksen and I thought we were, and so tell me if
22 we're wrong. Okay?

23 One, I think we were both of the impression that
24 discovery was completed, but not -- I mean discovery for the
25 purposes of, you know, the MDL. The cases were ready to be

1 sent back to their home jurisdictions, but maybe that's not
2 the case.

3 MS. ZIMMERMAN: So, Your Honor, I think that
4 there's a lot of sort of potential moving parts to that.
5 Certainly the plaintiffs -- I mean, to the extent that the
6 Court thinks that there won't be additional discovery, then
7 we will bring a motion to remand all of these cases back to
8 their home jurisdictions.

9 As the Court may be aware, this is a product that
10 3M exposes 50,000 people to every single day. And one of
11 the sort of interesting ironies, I guess, in this litigation
12 and one of the points we made to the Eighth Circuit as we
13 were arguing the appeal was that the transmission of
14 contaminants, pathogens, viruses, bacteria through the air
15 is now sort of in the commonplace understanding the way that
16 it maybe wasn't before. But there are a number of people
17 that are being exposed every single day.

18 We know we have many, many hundreds of additional
19 cases and where they ultimately are filed depends a lot,
20 candidly, on what the Court thinks is going to happen next.

21 So if a person was exposed to a Bair Hugger
22 yesterday and they had developed an infection, there are, I
23 think, solid arguments to be made that they certainly get to
24 do discovery on what 3M has known and discussed internally
25 about this product in the nearly five years since the

1 discovery period closed.

2 So discovery closed on March 31st of 2017. That's
3 when our general causation expert reports went in. We did
4 depositions shortly thereafter. So, I mean, at a minimum,
5 to start with, it's certainly our expectation that 3M needs
6 to supplement all of its discovery answers for any and all
7 responsive documents that have taken place or authored since
8 then.

9 We expect that, as we're doing in Mr. Petitta's
10 case down in Texas, there's going to be additional discovery
11 that is not limited to just what happened in the MDL.

12 So I think the difficult answer to Your Honor's
13 question is if there is no more discovery and if -- and in
14 some ways I hate to say that it's going to be completely
15 restarted and we're at square one because we don't see it
16 that way, but for new people in particular, if their cases
17 join into an MDL, they are absolutely entitled to discovery
18 on things that have happened since the conclusion of
19 discovery cut off almost five years ago now.

20 So, you know, if the answer is sort of there won't
21 be discovery because we kind of got through general
22 causation, and I'm not making a comment about that, then,
23 absolutely, there's nothing more to do here; we've done the
24 general issues and the cases are then apparently ready for
25 remand and we'll do that. Alternatively, there may be

1 significant additional discovery that needs to be done.

2 Some of it will relate to general causation.

3 Sort of the question about where we're at in terms
4 of bucketizing and that sort of discussion also sort of goes
5 hand in hand with what kind of trials there will be. I'm
6 not aware -- I mean, I know that there was sort of a pool of
7 cases that filed *Lexecon* waivers to start with and then they
8 retracted that and some of those were invalidated. I'm not
9 sure that there's a pool of cases that will be available to
10 be tried to the Court sort of as we sit here.

11 THE COURT: Yeah.

12 MS. ZIMMERMAN: So some of that may need to be
13 redone.

14 THE COURT: Yeah. So, again, you know, these are
15 just -- part of the point today was, frankly, to just
16 refamiliarize ourselves and get re-engaged in the case. And
17 some of the impressions that Judge Ericksen and I have had
18 were, you know, just based on our memory without reviewing
19 the entire file.

20 The impression or one impression -- somewhere
21 along the line we had gotten the impression or I had gotten
22 the impression that the plaintiffs were of a mind that there
23 were to be no more or they did not want any more bellwether
24 trials. I don't think the Court shared that view
25 necessarily, but somewhere along the line we got that

1 impression. So speak to that for a second, if you would.

2 MS. ZIMMERMAN: So I think that's sort of a
3 difficult question because, as the Court is aware, one of
4 the four appeals that was before the Eighth Circuit had to
5 do with the one trial we did have.

6 THE COURT: Correct, which was -- and this is
7 not -- I'm just, again, remembering. That one -- shall we
8 say the appeal went the defendants' way on that one,
9 correct?

10 MS. ZIMMERMAN: That's correct, Your Honor.

11 THE COURT: Okay. All right. Keep going.

12 MS. ZIMMERMAN: So, I mean, in terms of if there
13 are to be trials that sort of the parties can learn from, I
14 think it's fair to say that significant evidence was not
15 received in that trial and that, I expect, is going to
16 impact the willingness of plaintiffs -- various individual
17 plaintiffs to offer their case for trial.

18 So we're in sort of an interesting position, I
19 guess. I mean --

20 THE COURT: Right.

21 MS. ZIMMERMAN: -- obviously there's a great deal
22 of discretion that's offered to the Court, but that's -- I
23 mean, certainly what the plaintiffs -- individual plaintiffs
24 and the individual plaintiffs' lawyers not at this table,
25 even, would be considering as they thought about would I

1 waive *Lexecon*, would I agree to try my case here, what
2 they'll look at is the *Gareis* transcript.

3 And based on what the past behavior was in terms
4 of *Lexecon* retractions, albeit that that was not something
5 that was allowed to go forward, I would not expect there to
6 be additional folks from out of state that would come and --

7 THE COURT: Yeah. Understood. I suppose the
8 other -- to the extent that a bellwether process, if you
9 want to call it that, is still beneficial, I suppose Judge
10 Ericksen could identify some of her cases, the ones that are
11 here, for that -- set those on for trial.

12 MS. ZIMMERMAN: Absolutely correct. I mean, I'm
13 sure that there are a number of potential options in terms
14 of trying cases --

15 THE COURT: Okay.

16 MS. ZIMMERMAN: -- and sort of all of that is sort
17 of in the mix. I do know that the Court has -- or that
18 Judge Ericksen took senior status. We weren't sure if she
19 was still wanting to take these cases and try the cases. I
20 mean, I just don't know. I know that as a general matter in
21 the District of Minnesota that senior judges don't handle
22 MDLs, or that's my understanding. I could be wrong about
23 that.

24 But what's going on or what is to come, I guess,
25 it could be a remand process that we're sort of at if we're

1 not going to do additional discovery or perhaps we're
2 looking at all sorts of additional discovery and another --
3 I mean, this case was transferred here in 2015. So we could
4 be looking at another, you know, four or five years of
5 litigation.

6 MR. HULSE: Your Honor, may I suggest? It seems
7 like what we're trying -- what's happening here is trying to
8 make this litigation as unappealing for the Court as
9 possible, but --

10 THE COURT: That's okay.

11 MR. HULSE: So there are -- we have an idea. I
12 wasn't intending to present it, so this may not be a fully,
13 you know, ready-for-presentation idea, but if the Court is
14 not inclined to wade through that bucketizing process and
15 wait that long, we can do a sort of hybrid bellwether
16 selection where we take, you know, a pool of cases, and we
17 do have hundreds and hundreds of cases that either have
18 *Lexecon* waivers, which were -- you know, when those were
19 retracted, the Court denied that, or that are designated for
20 trial here and we can essentially go through a bucketizing,
21 and we would suggest a more robust process than that, but
22 that kind of process to weed through them.

23 Because the issue we ran into -- so I could be a
24 little off on these numbers, but I think we had 12
25 bellwethers that we ultimately took on and only one of them

1 survived to trial. This is part of the genesis for our
2 belief that there is a lot and probably the overwhelming
3 amount of this docket that is not fit for remand to
4 transferor courts and we need to work through it.

5 But we could do a kind of process where we sort of
6 take a selection of cases, you know, several hundred cases
7 or whatever it would be, and sort of put them through the
8 wringer to see what survives to bellwether and I think that
9 would teach us a lot.

10 I would also add that I think it would be pretty
11 rare to remand after just one bellwether trial. I don't
12 know that it's never happened, but I certainly haven't
13 thought of it and I don't know that we ever contemplated,
14 back before our voyage to the Eighth Circuit, that we
15 wouldn't be doing at least a few more bellwethers.

16 But our fundamental viewpoint is that there's a
17 lot of problems in this docket and that before we can get to
18 that point, either of having a discussion around settlement
19 or remanding the cases to transferor courts, we need to cull
20 the wheat from the chaff.

21 THE COURT: All right. So a couple of things.
22 What I'm hearing is that there's -- I don't know if you have
23 had the opportunity to meet and confer. We didn't expect
24 that you would do that. But what I'm hearing is there's
25 some pretty fundamental disagreement about where we should

1 go from here.

2 I'm hearing on your side there's some discovery to
3 be done. You haven't said it directly, but I'm inferring
4 that there is some thought that maybe additional expert work
5 need be done.

6 On your side I'm hearing discovery is closed, even
7 though you didn't say that exactly, and that where we were
8 in this process of categorizing cases ought to continue,
9 which, by the way, at least my memory was that process, I
10 recall it being that the genesis of it was as the first step
11 toward potential settlement discussions, but with the
12 recognition that it might also -- that it would pay
13 dividends with respect to defining bellwethers, but that it
14 wasn't undertaken for the purpose of defining bellwethers
15 per se.

16 But that's what I'm hearing. It strikes me that
17 we -- maybe the best thing to do is to have you each go back
18 and put together proposals or case management plans or case
19 management proposals about where we go from here and then
20 have you back and we try and figure out what does happen
21 next, but maybe -- you know, do you see it that way? Is
22 that a fruitful exercise?

23 MR. HULSE: I think it would be fruitful.

24 And I would also add on the discovery front, I
25 mean, I think -- you know, we would acknowledge everybody

1 has probably got to supplement their expert reports, right?

2 THE COURT: Right.

3 MR. HULSE: We'd be open to talking to plaintiffs
4 about some targeted discovery, additional discovery, around
5 what would be necessary to update those reports. So, like,
6 that piece I think could be fruitful.

7 I would like to -- I know my team would like to
8 discuss with them our ideas around this kind of what I call
9 the hybrid approach, a kind of hybrid bellwether
10 selection/bucketizing process that might be able to move
11 more quickly.

12 THE COURT: Okay. Ms. Zimmerman, I mean, do you
13 think it's a worthwhile exercise to have you each go back
14 and sort of put together your own view of what should
15 happen?

16 MS. ZIMMERMAN: I'm going to say something
17 candidly with the Court. We expect to bring a motion to
18 recuse.

19 THE COURT: Oh, okay. Me or Ericksen or both?

20 MS. ZIMMERMAN: I don't know that we've defined
21 it. I guess we thought Judge Ericksen, and not --

22 THE COURT: No. That's --

23 MS. ZIMMERMAN: There's certain cases, I guess,
24 that just after a certain amount of history, there's just
25 going to be a concern and maybe -- it's not a comment on

1 Her Honor's ability to handle cases, she handles a lot of
2 complicated cases, but this one has got some history now and
3 we've got clients to represent.

4 So I expect that that is going to come and it's a
5 part of -- our, sort of, inquiry today was interested in if
6 the Court intends to continue moving forward. So I guess
7 that's --

8 THE COURT: Yeah.

9 MS. ZIMMERMAN: -- an awkward thing to have to say
10 to the Court, but that's what we expect to do.

11 THE COURT: So always a hard topic to raise, I
12 recognize that, and you shouldn't feel squeamish about --

13 MS. ZIMMERMAN: Too late.

14 THE COURT: -- how you say it or how you raise it.
15 As far as I know, Judge Ericksen is intending to continue on
16 the case. Obviously if the plaintiffs bring a motion, it
17 will be heard and attended to and whatever the result is the
18 result is.

19 What I think would still be useful, even while
20 that motion is in process or before it's even filed,
21 whichever -- however it plays out, I think it would be good
22 to sort of send the parties back to their own corners to
23 develop what they think is an appropriate case management
24 plan going forward and we'll take it from there.

25 And then once you -- you know, if you can submit

1 those 30 days from today --

2 MS. ZIMMERMAN: The case management plan?

3 THE COURT: Pardon me? I'm sorry.

4 MS. ZIMMERMAN: A proposed case management plan
5 within 30 days?

6 THE COURT: Yeah. Yes. Excuse me. I shouldn't
7 be so slack in my language. Monday, January 17th, if you
8 can submit those. And I don't think those need to be --
9 well, I guess we'll file them on ECF.

10 Go ahead.

11 MS. ZIMMERMAN: So with respect to the motion for
12 recusal, it would be our preference --

13 THE COURT: Come on up to the podium. Are your
14 microphones on, you two?

15 MS. ZIMMERMAN: I don't usually have a hard time
16 with people hearing me, but maybe it's because I don't want
17 to say it. It would be my preference to submit the motion
18 for recusal --

19 THE COURT: First.

20 MS. ZIMMERMAN: -- privately --

21 THE COURT: Okay.

22 MS. ZIMMERMAN: -- rather than on the public
23 docket to start, and then the Court can consider it and we
24 can file it publicly if necessary, but that --

25 THE COURT: Yeah.

1 MS. ZIMMERMAN: And I am just sort of setting that
2 out there. That would be, I guess, my preference as a
3 practitioner here in the District of Minnesota, to do that
4 privately.

5 THE COURT: I think, you know -- I haven't
6 encountered this, so I have no idea.

7 MS. ZIMMERMAN: I have never done it.

8 THE COURT: I think what would be the smart thing
9 to do -- I can consult with Judge Ericksen, if you like, but
10 I think at a minimum, you know, file it under seal.

11 MS. ZIMMERMAN: Sure.

12 THE COURT: And then the Court can decide if
13 they -- if the Court wants it unsealed, it will get
14 unsealed, right?

15 MS. ZIMMERMAN: Sure. I have no doubt who is in
16 control of the docket.

17 THE COURT: Well, you'd be surprised at how often
18 that question seems to confuse people.

19 MS. ZIMMERMAN: I'm sure. I'm sure.

20 THE COURT: Okay. And, you know, while that's
21 happening, you can still at least put together a case
22 management plan.

23 MS. ZIMMERMAN: Sure.

24 THE COURT: Because whether it's her and me or not
25 her or not me or not either of us, whatever, we can at least

1 try and move things along. Okay?

2 MS. ZIMMERMAN: Okay.

3 THE COURT: Okay. Go ahead and go back and be
4 seated. Anything else from your perspective we should deal
5 with today?

6 MS. ZIMMERMAN: Not that I can think of right now,
7 Your Honor.

8 THE COURT: Okay. Because I have one thing, but
9 how about you, Mr. Hulse?

10 MR. HULSE: No, Your Honor.

11 THE COURT: Okay. So we are still on the record.
12 This portion will be sealed until it's unsealed and I will
13 unseal it, but I want to make it clear to everybody not for
14 any reason other than when this is public, it will be
15 public.

16 You will be receiving from me or you will be --
17 yeah, I've had to do it in one other case. You'll be
18 receiving a disclosure from me. It will be sealed when it
19 is delivered to the two of you, the two sides. All the
20 plaintiffs' lawyers, it can be shared with them. It will be
21 unsealed shortly thereafter.

22 Let me actually inquire. Ma'am, I'm sorry. Are
23 you with the press?

24 MS. LORD: No. I'm a lawyer. I represent --

25 THE COURT: Okay.

1 MS. ZIMMERMAN: Priscilla Lord.

2 THE COURT: Okay. Oh, I'm sorry. Okay. Very
3 well.

4 So this is all under seal until it becomes
5 unsealed, and it will be unsealed quickly, but -- see, I
6 wasn't going to do this verbally, but I will do it verbally
7 for now.

8 My personal and my family's retirement accounts
9 and investment accounts are all with an investment manager
10 who has discretion over certain funds, which is to say they
11 can buy and sell at their discretion without any preapproval
12 by me or my wife.

13 For a portion of the time that this case was
14 active, my investor, without my subjective knowledge,
15 purchased some shares in 3M. Also without my knowledge, not
16 too long after that, I think it was less than a year, sold
17 the shares in 3M.

18 I am preparing, as I say, a disclosure. It will
19 tell you when they were purchased, when they were sold, what
20 was decided during that period of time, what percentage of
21 my portfolio this compromises, which -- not that I have a
22 vast portfolio, but this is a very small portion.

23 It will disclose that I was completely unaware of
24 this subjectively until November of this year, 2021, which
25 is not the standard. Okay? I have -- you know, I am

1 completely divested; have been for quite some time. I have
2 put an instruction in with my advisor that they may not
3 purchase any shares of 3M or any of its subsidiaries.

4 That disclosure is coming. You -- once that
5 disclosure is made and filed, that will be unsealed, this
6 will be unsealed, and you may all do whatever you see
7 appropriate to do. Okay?

8 But that is what's required by my rules, that I
9 have to make the disclosure. And the advisory opinions say
10 that in the middle of a case, the remedy is to divest.
11 However, you all do with that information whatever it is you
12 see fit. Okay? Like I say, that's coming.

13 I think that's it for now, but one last chance.
14 Ms. Zimmerman, anything further?

15 MS. ZIMMERMAN: No, not from us, Your Honor.

16 THE COURT: Okay. Mr. Hulse?

17 MR. HULSE: No. Thank you, Your Honor.

18 THE COURT: Okay. With that, we are going to go
19 off the record.

20 (Court adjourned)

21 * * *

22

23

24

25

1
2
3 I, Lori A. Simpson, certify that the foregoing is a
4 correct transcript to the best of my ability from the
5 official digital recording in the above-entitled matter.
6

7 Certified by: s/ Lori A. Simpson

8 Lori A. Simpson, RMR-CRR
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LORI A. SIMPSON, RMR-CRR
(651) 848-1225